

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BERTHONY CADET JR.,

Plaintiff,

-against-

MEMORANDUM & ORDER

06 CV 2198 (RJD) (LB)

THE CITY OF NEW YORK, CITY UNIVERSITY
OF NEW YORK, BOROUGH OF MANHATTAN
COMMUNITY COLLEGE, VINTON MELBOURNE,
JOHN GALLAGHER, LATASHA JOHN,

Defendants.

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DEARIE, Chief Judge.

On March 31, 2006, plaintiff brought a *pro se* action pursuant to the Americans With Disabilities Act, 42 U.S.C. §§ 12101, et seq., to the Supreme Court of the State of New York, Kings County, where it was subsequently removed to this Court on May 11, 2006. Magistrate Judge Bloom's January 14, 2008, scheduling order indicated that plaintiff's deadline for serving papers in opposition to defendants' motion for summary judgment was February 22, 2008. Plaintiff has not filed any papers or requested an enlargement of time. On March 31, 2008, defendants' filed their motion for summary judgment along with a motion to dismiss for lack of prosecution.

Defendants indicate that their effort to send plaintiff the motion for summary judgment by regular mail was returned unopened and stamped "Return to Sender" and "Moved Not Forwardable." Defendants attempted to contact plaintiff by email on two occasions, and included the motion for summary judgment as an electronic attachment. Plaintiff did not respond, and has not communicated with either defendants or this Court since June 28, 2007.

Plaintiff is under no obligation to formally oppose defendants' motion for summary

judgment and defendants' motion can be decided without opposition papers from plaintiff. However, this is plaintiff's action to vindicate his rights and if he is no longer interested in pursuing this case, there is no point in allocating resources to decide defendants' motion. Therefore, plaintiff is given until April 11, 2008, to contact the Court in writing to state if he still wants to pursue this action. Should plaintiff fail to contact the Court by April 11, 2008, the Court will deem the case abandoned and it will be dismissed under Fed. R. Civ. P. 41(b).

SO ORDERED.

Dated: Brooklyn, New York
March 25, 2008

s/ Judge Raymond J. Dearie

RAYMOND J. DEARIE
United States District Judge